



MICHIGAN TOWNSHIPS ASSOCIATION

January 19, 2012

Senate Natural Resources, Environment & Great Lakes Committee
Michigan Senate
P.O. Box 30036
Lansing, MI 48909

RE: House Bill 4578

Dear Chairman Casperson and Committee Members:

MTA does not believe this legislation is necessary and feels it is an overreaction to a very limited situation where communities have effectively banned land application of septage. We are opposed to House Bill 4578 as currently written.

Let me begin by giving a little bit of history. In 2004, legislation was signed into law to amend Part 117 of the Natural Resources and Environmental Protection Act of 1994 to further regulate the pumping, disposal and land application of septage. The 2004 amendments to the law were negotiated by MTA, the Michigan Septic Tank Association, DEQ and other interested stakeholders. The overall emphasis of the legislation was to enable the state to continue oversight of septage regulations and to eliminate bad actors in the septage hauler industry.

Under the legislation, some aspects of septage regulation were left to local units of government. One of those aspects was the ability to prohibit the land application of septage. While MTA does not encourage local townships to take this action, and in fact we discourage it, in some more highly urban communities it sometimes makes more sense to transport septage to septage receiving facilities rather than to land apply. In fact, until fairly recently under state law, septage that was pumped within 15 miles of a septage receiving facility must go to that facility and not be land applied. As part of the 2004 legislation, this distance was expanded to 25 radial miles starting as of October 1, 2010.

Under state law, if a local unit of government wants to effectively ban the land application of septage, it must make available a receiving facility that can lawfully accept septage waste generated within that governmental unit that is not lawfully applied to land. While court decisions have upheld a local unit's ability to take such action, the question that has arisen is what is a reasonable distance to require haulers to transport the septage.

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I'm told that HB 4578 was introduced mainly in response to the situation with the Grand Traverse County Septage Treatment Facility, which handled septage waste for municipalities within Grand Traverse County and also Elmwood Township in Leelanau County. Unfortunately, the project has been faced with structural and over capacity issues that have led to financial deficits and, as a result, have caused rates for pumping septic tanks in those areas to rise faster than in most areas of the state. In other areas of the state, many counties have implemented a countywide land application ban and are functioning just fine.

However, as of October 1, 2010, the Grand Traverse County Septage Treatment Facility no longer requires all septage waste generated within Grand Traverse County to be deposited at their facility. Instead, the facility has implemented a 25 radial mile maximum, which is the requirement under state statute. Therefore, the original purpose for this bill, and a previous bill introduced last session, is no longer relevant and is one major reason why MTA feels this legislation is not needed.

In addition, MTA is always concerned with efforts to pre-empt local units of government from adopting local ordinances. When the state tries to impose a one-size-fits-all philosophy, it is usually at the detriment of local governments and its citizens.

Despite our general philosophy against state efforts to pre-empt local authority, MTA is, and has been, willing to work with Rep. Goike and the Michigan Septic Tank Association on this issue. We have suggested that if a local unit of government wants to effectively ban the land application of septage and a septage receiving facility is located in the same county that to require septage to be transported to that facility should not be unreasonable. Traveling within a county to dispose of the septage waste is in fact very reasonable. After all, in the northern areas of our state it's not uncommon for an individual septage hauler to cover multiple counties to pick up septage waste. Therefore, this doesn't seem to be unreasonable to travel within a single county to dispose of septage from our standpoint.

In summary, we don't see the need for this legislation as it will do nothing to improve the Grand Traverse County Septage Treatment Facility situation and would only take away local control, which is precisely where a previous Legislature felt this issue belonged.

Thank you for your consideration of this important matter.

Sincerely,



Thomas E. Frazier
Legislative Liaison